



State of California
Respiratory Care Board
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Inquiry: This letter is to follow-up on correspondence the American Association for Respiratory Care (AARC) sent to your Board in August of this year. The AARC is developing a compendium on the laws, regulations, and licensure Board opinions on the issue of how respiratory therapy licensure laws govern the delivery and servicing of home respiratory therapy equipment and services. The AARC continues to receive numerous questions from durable medical equipment suppliers (DMEs) or home care companies inquiring whether or not they need to employ licensed respiratory therapists in order to provide equipment and services to patients. Our general response is to inquire what exactly they intend the individual to do (deliver/set up of equipment or patient assessment/care) and then refer them to the licensure law and rules. At this time, approximately 15 state licensure laws or regulations specifically address the DME/licensed RT issue. To the best of our knowledge, your state does not currently have either statutory language or regulations governing this issue. If and when inquiries arise regarding whether a DME or home care company must use licensed respiratory care therapists, how does your licensing board respond? It would be extremely helpful to include your state information in the compendium we are developing. Once we have completed the document, we will place it on our website for general public reference.

Response: Under the provisions of the Respiratory Care Practice Act (RCPA), the practice of respiratory care is defined and the settings at which licensed respiratory care practitioners (RCPs) may provide services is defined. Additionally, the RCPA provides that the practice of respiratory care is limited to licensed RCPs and other qualified licensed persons authorized by their respective licensing statute to practice respiratory care. Unlicensed persons are prohibited from practicing respiratory care in the State of California.

In addition, the RCB makes its determinations with respect to the delivery of home respiratory therapy equipment and services based on the facts surrounding the inquiry and the provisions of the RCPA. The interpretation applied by the RCB in these matters has been that under the RCPA unlicensed persons are allowed to deliver equipment only. The delivery of equipment does not include application of the equipment to a patient or instruction in the use of the equipment for the purpose of deriving the intended medical benefit.